

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MEYNARD DESIGNS, INC. AND
EARTH VISIONS INC.,

Plaintiffs,

V.

EARTH PRODUCTS, INC.,

Defendant.

Civil Action No. 05-11781-NMG

**ASSENTED-TO MOTION FOR
EXTENSION OF TIME TO RESPOND TO COMPLAINT**

Defendant, Earth Products, Inc. (“Earth Products”), hereby moves pursuant to Fed. R. Civ. P. 6(b), to extend the time within which Earth Products must respond to Plaintiffs’ complaint. As grounds for this Motion, Earth Products states as follows:

1. Plaintiffs filed and served their complaint in the current action on August 29, 2005, and September 12, 2005, respectively.

2. Prior to Plaintiffs' filing of this suit, on July 28, 2005, Earth Products filed a complaint against Meynard Designs in the United States District Court for the Western District of Washington.

3. The parties believe that upon filing of answers and counterclaims in both actions, the issues raised by this litigation and the action pending in the Western District of Washington will substantially overlap, and, if so, litigation should move forward in one of the two venues, but not both.

4. Meynard Designs has moved to dismiss, transfer, or stay the Washington action in view of this proceeding pending in Massachusetts and on personal jurisdiction and venue grounds. Thus, the venue dispute is properly before the Washington court for decision at this time.

5. Earth Products has agreed that, if the Washington court either dismisses the Washington action, transfers that case to be heard in Massachusetts or stays that case pending the outcome of this Action, Earth Products will not challenge personal jurisdiction or venue in the Massachusetts case.

6. In order to avoid needless expense and effort of duplicative litigation, and in order to conserve judicial resources, Earth Products seeks an extension of time for Earth Products to plead or otherwise respond to Plaintiffs' complaint to ten (10) business days after the Washington court rules on Meynard Designs' pending motion. Earth Products will promptly notify this Court of the decision of the Washington court.

7. Plaintiffs assent to this extension.

WHEREFORE, Earth Products requests an extension of time to plead or otherwise respond to Plaintiffs' complaint to ten (10) business days after the Washington Court decides Meynard Designs' pending motion to dismiss or transfer.

Dated: October 5, 2005

Respectfully submitted,

Earth Products, Inc.,

By its attorneys,

/s/ Steven M. Bauer

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